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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,348	03/01/2002	Richard T. Ruebusch	TEP0193-01	3071

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EXAMINER

KENNY, STEPHEN

ART UNIT	PAPER NUMBER
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3726

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DATE MAILED: 02/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/087,348

Applicant(s)

RUEBUSCH ET AL.

Examiner

Stephen J Kenny

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-14 and 16-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-14, 16-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Allowable Subject Matter

Prosecution on the merits of this application is reopened on claims 2-14, 16-26 considered unpatentable for the reasons indicated below. The After Final Amendment filed 1/26/04 will be entered into the case.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-14, 16-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Konig (US Patent No 4991282) in view of Applicant's Admitted Prior Art (AAPA).

Regarding claims 2-9, 16-20, 26 Konig discloses a method of manufacturing a implement comprising: selecting a desired module configuration and connecting a selected engine, transmission, and steering mechanism together to form a subassembly to provide a base or "front frame" (column 1, lines 14-19) of the implement; transporting the base to a second facility (column 2, lines 4-8); providing a working device at the second facility and connecting the working device to the base of the implement at the second facility (column 1, line 19 & column 5, lines 22-25 wherein body 25 can be considered a "working device"). In regards to claim 26, the second facility (location of body 25) is remote from the first facility (where the chassis & components are assembled) as implied by the moving of said chassis to the location of body 25.

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Konig does not explicitly disclose providing a plurality of types of engines, transmissions, & steering mechanisms, and work device assemblies.

The examiner takes official notice that this is a practice well known and established in the manufacturing of implements & vehicles. For example, it is routine practice for automotive manufacturers to provide both a 4-cylinder as well as a 6-cylinder engine for the same automobile model; likewise it is common to provide a standard as well as an automatic transmission for the same model. It is widely known that this practice enables automotive manufacturers to better meet an ever-changing consumer demand.

Furthermore, Applicant's Admitted Prior Art discloses implements with various: shaft (i.e. horizontal & vertical) orientations (paragraph 0007, line 2); transaxles (i.e. hydrostatic, manual shift, & friction drive) (paragraph 0039, lines 1 & 11); steering mechanisms (paragraph 0050, lines 5-6); and various work device assemblies (paragraph 0050, line 7). Therefore it is merely a matter of engineering design choice to select any particular shaft, transaxle, steering mechanism, & work device since applicant has stated that process would perform equally well with any combination of parts (paragraph 0050, lines 5-6).

Regarding claims 10, & 21, Konig discloses providing wheels and attaching the wheels to the transmission at the first manufacturing facility (column 1, line 17).

Regarding claims 11, 13, 14, 22, 24, & 25, Konig discloses providing a drive linkage or "drive unit" and attaching the drive linkage to the base of the implement and selected parts at the first manufacturing facility (column 1, line 16); and providing a drive linkage with the work

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piece (column 4, lines 57-60); and connecting said drive linkage to the working device and the base implement (column 4, lines 33-60).

Regarding claims 12, & 23, the examiner takes official notice that it is common practice to manufacture vehicles and provide a form of packaging (often in marine cargo containers) and transporting the vehicle to a wholesaler, retailer, or customer. This is routine procedure for the manufacturers of foreign automobiles that are sold in the United States.

Conclusion

The previously indicated allowable subject matter has been reconsidered and determined to lack patentable novelty. The applicant's invention is directed towards a modular method of manufacturing an implement at separate & remote facilities, not the specific components (e.g. engine & transmission, etc.) that the implement is comprised of. This concept of a modular method of manufacturing at separate & remote facilities is disclosed by Konig as discussed above. Therefore the limitations of a particular configuration of components (i.e. engine, transaxle, clutch, and blade assembly) are not considered to be novel, especially since applicant states that any type of component can be employed in this method (paragraph 50, lines 5-6).

The prior art made of record in the previously mailed PTO-892, and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J Kenny whose telephone number is 703-306-0359. The examiner can normally be reached on mon - fri 9am - 5pm.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 703-308-1789. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sk SK

2/24/04



PETER VO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700